

THIS DISPOSITION IS  
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PRECEDENT OF THE TTAB

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AD

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re Huck International, Inc.

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Serial No. 75/650,428

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Request for Reconsideration

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Joseph R. Papp of Harness, Dickey & Pierce, P.L.C. for Huck International, Inc.

David H. Stine, Trademark Examining Attorney, Law Office 114 (Margaret Le, Managing Attorney).

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Before Simms, Walters and Drost, Administrative Trademark Judges.

Opinion by Drost, Administrative Trademark Judge:

On January 16, 2002, the Board affirmed the refusal to register applicant's mark AL on the ground that the mark was merely descriptive under Section 2(e)(1) of the Trademark Act. On February 15, 2002, applicant requested reconsideration and a remand to the examining attorney to modify the identification of goods, to provide verification of the sophisticated nature of the purchasers, and to

provide verification that these sophisticated purchasers do not view AL as symbolizing aluminum. Request for Reconsideration at 7. Applicant also was willing to submit evidence that some of its fasteners do not contain aluminum. On April 5, 2002, the Board denied applicant's request for reconsideration because the Board is without authority to remand the case for further prosecution except to enter a disclaimer.

Applicant has submitted a second request for reconsideration<sup>1</sup> in which it offers to submit a disclaimer. Submission of disclaimer is not a means to reopen the prosecution of an application that has already been adjudicated. As discussed in our previous decision:

Entirely aside from the merits of appellant's request, the Board has no jurisdiction under the Trademark Rules of Practice to remand an application to the Examining Attorney after a final decision has been rendered where the purpose of such remand would be to reopen the application.

In re Johanna Farms, Inc., 223 USPQ 459, 460 (TTAB 1984).

Clearly, the purpose of this remand would be to reopen prosecution. Applicant's disclaimer would not place the

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<sup>1</sup> Trademark Rule § 2.144 provides that "[a]ny request for rehearing or reconsideration, or modification of the decision must be filed within one month of the decision." Inasmuch as applicant's second request for reconsideration was filed more than one month after the decision on ex parte appeal, it is untimely.

application in condition for allowance. See Decision dated January 16, 2002, pp. 4-5, n.3.

We have considered applicant's second request for reconsideration and its request for a remand, and, even if it was timely submitted, we find no basis to change our decision or to remand the case to the examining attorney. Therefore, applicant's second request for reconsideration and remand is denied.